



Billing Code 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XW009

**Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries;
Pacific Coast Groundfish Fishery; Application for an Exempted Fishing Permit**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, West Coast Region, NMFS, has made a preliminary determination that an exempted fishing permit application titled, “Annual Vessel Limit Pooling for Groundfish IFQ Vessels Operating Under a Collective Enforcement Agreement in 2019-2020,” contains all of the required information and warrants further consideration. The application, submitted by the Fort Bragg Association and the Half Moon Bay Groundfish Marketing Association, requests approval to test the use of a voluntary collective agreement to manage a pool of annual vessel limits of cowcod quota pounds using a risk pooling model. This exempted fishing permit project would allow individual vessels participating in the California Groundfish Collective to exceed their annual vessel limit for cowcod, however the collective pooled annual vessel limit would not be exceeded. The primary goal of this exempted fishing permit project is to reduce the operational risk of catching cowcod for participating vessels, while allowing participating vessels to increase landings of more abundant groundfish stocks. Regulations under the Magnuson-Stevens Fishery

Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed exempted fishing permit projects.

DATES: Comments must be received no later than 5 p.m., local time on [*insert date 15 days after date of publication in the FEDERAL REGISTER*].

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2019-0101, by any of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov#!/docketDetail;D=NOAA-NMFS-2019-0101*, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments. The EFP application will be available under “Supporting Documents” through the same link.
- *Mail:* Submit written comments to Lynn Massey, West Coast Region, NMFS, 501 W. Ocean Blvd., Ste. 4200, Long Beach, CA 90802-4250.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and would generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender would be publicly accessible. NMFS would accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous). Attachments to electronic comments would be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Lynn Massey, West Coast Region, NMFS, at (562) 436-2462, lynn.massey@noaa.gov.

SUPPLEMENTARY INFORMATION: This action is authorized under Magnuson-Stevens Conservation and Management (Magnuson-Stevens Act) regulations at 50 CFR 600.745, which allow NMFS Regional Administrators to issue exempted fishing permits (EFP) to test fishing activities that would otherwise be prohibited.

The California Groundfish Collective (CGC) is comprised of fishing associations from Fort Bragg and Half Moon Bay, and includes fishermen from three ports along the California Coast. CGC fishermen collect and share information about where, when, and what type of fish they catch, and use this information to adaptively manage fishing strategies to reduce bycatch of overfished groundfish stocks (*i.e.*, yelloweye rockfish and cowcod) and increase catch of healthy target groundfish stocks (*e.g.*, chilipepper rockfish, bocaccio, and petrale sole).

CGC vessels participate in the Trawl Rationalization Program's Shorebased Individual Fishing Quota (IFQ) Program. Annual vessel limits are used in the Shorebased IFQ Program to restrict the consolidation of quota pounds among vessels in the fishery, particularly for constraining stocks and stock complexes (*e.g.*, overfished stocks). Vessels may not purchase or fish quota pounds in excess of the annual vessel limit. For example, if a vessel owns 100 quota pounds of a stock, and the annual vessel limit is 500 quota pounds, the vessel can only purchase 400 additional quota pounds, and fish up to a total of 500 quota pounds. The annual vessel limit for stocks or stock complexes is calculated as a fixed percentage of the Shorebased IFQ allocation.

The region where the CGC operates off the coast of California (south of the 40°10' North latitude (N. lat.) management line) is the only area where cowcod are encountered and managed as an individual IFQ species, and few trawl vessels operate in the area. The annual catch limit for cowcod is small due to its overfished stock status. Vessels have historically caught cowcod in this region, but were previously able to avoid encounters to limit cowcod catch below the annual vessel limit. However, as the cowcod stock rebuilds, vessels are encountering cowcod more often and in higher numbers. The draft 2019 cowcod stock assessment, which will be reviewed at the September Pacific Fishery Management Council (Council) meeting, indicates that the stock has improved compared to the previous assessment, which projected that the stock would rebuild by 2020. If the Council's Scientific and Statistical Committee determines the draft 2019 cowcod stock assessment is the best scientific information available, the resulting biomass estimates may be used to support adjustments in future catch limits or changes to cowcod's stock status.

At the June 2018, April 2019, and June 2019 Council meetings, the CGC made public comments that annual vessel limits for cowcod have been constraining fishing operations in CGC ports. The CGC reported that in 2017-2019, its participating vessels experienced significant catch increases for cowcod early in the fishing season, and that, if this continues through the 2019 and 2020 fishing years, vessels may attain their cowcod annual vessel limit and be forced to depart fishing grounds early despite not having attained quotas for healthy target stocks. This would reduce economic opportunity for CGC vessels and likely adversely impact other components of the fishing industry (*e.g.*, processors).

On June 18, 2019, the CGC submitted an application for an EFP project to exempt CGC vessels from the Federal regulations at 50 CFR 660.140(b)(1)(iii) through (v), which include requirements applicable to individual vessels with any species deficit in their IFQ account. If NMFS approves this EFP project, CGC vessels fishing on an EFP trip would be permitted to exceed the current annual vessel limit for cowcod (*i.e.*, 858 pounds or 17.7 percent of the 4,850-pound cowcod Shorebased IFQ allocation), however collectively, the CGC vessels' catch would not be permitted to exceed the amount specified for the pool (*i.e.*, 858 pounds x total number of CGC participant vessels). The goals of this EFP project are to:

- test and evaluate the merits of permitting a regional collective of vessels operating under a Collective Enforcement Agreement, similar to a regional fishery association, to pool constraining species quota pounds, allocate those pounds among members as needed (potentially exceeding annual vessel limits), and stay within a pool limit;
 - identify if managing annual vessel limits using a risk pool model can allow additional attainment of target species while mitigating the impact of catching constraining species to the point of ending fishing seasons early;
 - establish and share best practices for collectively managing and allocating constraining species quota pounds using a Collective Enforcement Agreement;
 - gather and share information that may inform an impact analysis should the Council scope potential changes to the groundfish IFQ vessel limit regulations;
- and

- gather and share information that may inform an exploration into the types of provisions to include in regional fishery associations as defined in the Magnuson-Stevens Fishery Conservation and Management Act as well as community fishing groups that are already allowed within the current fishery management system.

Currently, there are five CGC vessels. If this EFP project is approved, NMFS would provide EFPs to these five vessels in 2019, and any additional vessels that join the CGC in 2019 or 2020.

NMFS is proposing to approve the 2019-2020 EFP project covering the exemptions stated above, following the conclusion of the public comment period and review of public comment. Pending approval, NMFS would issue the permits for the EFP project to the vessel owner or designated representative as the “EFP holder.” NMFS intends to use an adaptive management approach in which NMFS may revise requirements and protocols to improve the program without issuing another **Federal Register** Notice, provided that the modifications fall within the scope of the original EFP project. In addition, the applicants may request minor modifications and extensions to the EFP project throughout the course of research. NMFS may grant EFP modifications and extensions without further public notice if the changes are essential to facilitate completing the proposed research and result in only a minimal change in the scope or impacts of the initially approved EFP request.

All CGC vessels participate in NMFS’ electronic monitoring (EM) EFP project, which exempts certain vessels from the requirement to carry a human observer on all IFQ fishing trips. While NMFS has primary jurisdiction over EM EFP management, the Nature Conservancy is an EFP holder that manages CGC vessels operating under the EM

EFP pursuant to a Collective Enforcement Agreement, which outlines rules that CGC vessels must follow, including catch requirements and EM system specifications. If NMFS approves this EFP application, the specific terms and conditions of the EFP would be partially managed by the Nature Conservancy via an extended version of the EM EFP Collective Enforcement Agreement. NMFS may adjust these specifics in cooperation with the EFP applicant and following the public comment period.

After publication of this document in the **Federal Register**, NMFS may approve and issue permits for the EFP project after the close of the public comment period. NMFS will consider comments submitted, as well as any discussion that may occur at the September 2019 Council meeting, in deciding whether to approve the application as requested. NMFS may approve the application in its entirety or may make any alterations needed to achieve the goals of the EFP project.

Authority: 16 U.S.C. 1801 *et seq.*; 16 U.S.C. 773 *et seq.*; 16 U.S.C. 7001 *et seq.*

Dated: September 24, 2019.

Jennifer M. Wallace,
Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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